

## Message Text

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ACTION L-03

INFO OCT-01 EA-07 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 EB-07

COME-00 TRSE-00 JUSE-00 IO-13 /074 W

----- 024189

R 030436Z MAY 76

FM AMEMBASSY WELLINGTON

TO SECSTATE WASHDC 1310

LIMITED OFFICIAL USE SECTION 1 OF 2 WELLINGTON 1642

FOR L/PM

E.O. 11652: N/A

TAGS: PGOV, PFOR, NZ

SUBJ: CABINET TASK FORCE ON QUESTIONABLE PAYMENTS ABROAD:

FOREIGN LAWS ON QUESTIONABLE PAYMENTS

REF: (A) STATE 094647, (B) 75 WELLINGTON 3354, (C) 75 WELLINGTON  
A-157, (D) 75 STATE 258169

1. REF C TRANSMITTED A COPY OF "NEW ZEALAND CRIMES ACT"  
AND ITS 4 AMENDMENTS. LAWS GOVERNING ILLICIT PAYMENTS TO NEW  
ZEALAND OFFICIALS, ARE COVERED IN PART VI OF THE ACT --  
BRIBERY AND CORRUPTION -- SECTIONS 99 THROUGH 106. (SEE REF  
B).

2. ANSWERS TO QUESTIONS RAISED PARA 2 REF A ARE AS FOLLOWS:

(A) YES. SUCH UNORTHOFIX TACTICS ARE COVERED UNDER  
DIFFERENT PIECES OF LEGISLATION. THE ABOVE MENTIONED  
CRIMES ACT, THE SECRET COMMISSIONS ACT, THE STATE SERVICES  
ACT (SECTIONS 53, 54 AND 76) AND THE CODE OF CONDUCT  
LAID DOWN IN THE PUBLIC SERVICE REGULATIONS (REG. 47).  
THE PUBLIC SERVICE REGULATIONS EXCLUDE THE RAILWAYS  
DEPARTMENT, THE POST OFFICE DEPARTMENT, THE EDUCATION  
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SERVICE, THE HEALTH SERVICE AND THE ARMED FORCES.

EACH OF THESE DEPARTMENTS HAS ITS OWN ACT WHICH INCLUDES A CODE OF CONDUCT. HOWEVER, THESE ACTS DO NOT COVER ANY DETAIL OFFENSES IN CONNECTION WITH ILLICIT PAYMENTS. ALL THE DEPARTMENTS HAVE THEIR RESPECTIVE SOLICITORS. THE EMBASSY UNDERSTANDS FROM ONE SUCH SOLICITOR THAT OFFENSES FOR QUESTIONABLE PAYMENTS WOULD BE REFERRED BY THE RESPECTIVE DEPARTMENTAL SOLICITOR TO THE POLICE DEPARTMENT WITH AN INSTRUCTION THAT CRIMINAL COURT ACTION BE INSTITUTED. (THERE IS NO SEPARATION IN NEW ZEALAND BETWEEN A CIVIL COURT AND A CRIMINAL COURT).

(B) YES. ACCORDING TO SECTION 5 OF THE SECRET COMMISSIONS ACT 1910 EVERY AGENT IS GUILTY OF AN OFFENSE WHO MAKES A CONTRACT ON BEHALF OF HIS PRINCIPAL AND FAILS TO DISCLOSE TO HIS PRINCIPAL, AT THE TIME OF MAKING THE CONTRACT OR AS SOON AS POSSIBLE THEREAFTER, THE PECUNIARY INTEREST WHICH THE AGENT HAS IN THE MAKING OF THE CONTRACT, UNLESS TO THE KNOWLEDGE OF THE AGENT, THE EXISTENCE OF SUCH PECUNIARY INTEREST IS ALREADY KNOWN TO HIS PRINCIPAL.

(C) THE ANSWER TO THIS QUESTION OF NECESSITY IS IN THREE PARTS.

(I) THE NEW ZEALAND GOVERNMENT STORES BOARD (GSB) IS THE OPERATIVE CONTROLLER OF ALL GNZ PURCHASING. IT IS ALSO RESPONSIBLE FOR THE DRAFTING OF LAWS AND REGULATIONS CONTROLLING GNZ PURCHASES. (SEE REF. B). THE SECRETARY OF THE GSB INFORMED THE EMBASSY THAT WHILST THERE ARE NO LAWS OR REGULATIONS PROHIBITING INVOLVEMENT BY AGENTS IN SALES TO GNZ, ANY AGENT OR COMPANY APPROACHING A GNZ EMPLOYEE WITH THE INTENTION OF MACHINATING TO OBTAIN GOVERNMENT BUSINESS WOULD BE REPORTED TO THE GSB. THOUGH THE GSB WOULD NOT NOTIFY THE AGENT/COMPANY THAT IT WAS AWARE OF AN APPROACH HAVING BEEN MADE, THE AGENT/COMPANY WOULD BE BLACKLISTED AND, ALTHOUGH IT COULD CONTINUE SUBMITTING TENDERS, THE TENDERS WOULD NOT BE CONSIDERED AND NO FURTHER DEALINGS WITH THE AGENT/COMPANY WOULD BE ENTERED INTO.

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GSB FILLS DEPARTMENTAL REQUESTS FOR MATERIALS AND EQUIPMENT BY ONE OF TWO METHODS.

(A) IF THE ITEMS REQUESTED ARE MANUFACTURED IN NZ THE GSB ENTERS INTO A CONTRACT WITH THE MANUFACTURER, OR

(B) IF THE ITEMS ARE NOT MANUFACTURED IN NZ  
THEN OVERSEAS TENDERS ARE CALLED FOR.

(II) ALTHOUGH THERE ARE NO LAWS OR REGULATIONS  
PREVENTING AGENTS MAKING APPROACHES TO GNZ EMPLOYEES  
WITH THE INTENTION OF USING UNORTHODOX METHODS TO GAIN  
ORDERS FOR GNZ REQUIREMENTS, ACCORDING TO GNZ SOURCES,  
THEY WOULD FIND IT EXTREMELY DIFFICULT TO MAKE A  
SUCCESSFUL APPROACH.

WHEN A GOVERNMENT DEPARTMENT REQUIRES MATERIALS  
OR EQUIPMENT IT MAKES A REQUEST TO ITS RESPECTIVE  
DEPARTMENT'S PURCHASING COMMITTEE. THIS COMMITTEE  
CONSIDERS AND MAKES RECOMMENDATIONS ON THE REQUEST  
TO THE DEPARTMENT'S MANAGEMENT WHICH, IN TURN, MAKES  
A RECOMMENDATION AND REQUEST TO CABINET FOR APPROVAL  
AND NECESSARY FINANCE. THEREFORE, THE ONLY PERSONS  
WHO MIGHT BE INFLUENCED TO ACCEPT ANY TYPE OF  
QUESTIONABLE PAYMENT WOULD BE CABINET MINISTERS.  
(SEE PARA A).

(III) ANY GOVERNMENT EMPLOYEE UNDER THE JURISDICTION  
OF THE STATE SERVICES COMMISSION WHO FOR PERSONAL GAIN  
USES HIS POSITION AS A CIVIL SERVANT TO ENGAGE IN  
IMPROPER PRACTICES WITH AGENTS IN CONNECTION WITH GNZ  
BUSINESS OR INVESTMENT TRANSACTIONS, WOULD BE CHARGED  
UNDER THE STATE SERVICES ACT CODE OF CONDUCT SECTIONS 53 -  
59. PENALTIES FOR CONVICTION FOR OFFENSES UNDER THE CODE  
OF CONDUCT ARE: IMPRISONMENT, DISMISSAL FROM THE SERVICE,  
TRANSFER TO OTHER DUTIES, PROBATION, PERCENTAGE LOSS  
OF SALARY, NON-PAYMENT OF SALARY OR ANY AMOUNT IN RESPECT  
OF LOSS OF EARNINGS FOR ANY PERIOD RESULTING FROM SUSPENSION  
FROM DUTY.

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ACTION L-03

INFO OCT-01 EA-07 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 EB-07

COME-00 TRSE-00 JUSE-00 IO-13 /074 W

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R 030436Z MAY 76

FM AMEMBASSY WELLINGTON  
TO SECSTATE WASHDC 1311

LIMITED OFFICIAL USE SECTION 2 OF 2 WELLINGTON 1642

FOR L/PM

D. NO. THERE IS LEGISLATION IN NEW ZEALAND PROHIBITING OR RESTRICTING POLITICAL CONTRIBUTIONS BY INDIVIDUALS OR CORPORATIONS, HOWEVER, THE ELECTORAL ACT 1956, SECTION 139 -- MAXIMUM AMOUNT OF ELECTION EXPENSES -- STATES "THE TOTAL ELECTION EXPENSES OF A CANDIDATE SHALL IN NO CASE EXCEED \$2,000. EVERY CANDIDATE OR OTHER PERSON IS GUILTY OF A CORRUPT PRACTICE WHO DIRECTLY OR INDIRECTLY PAYS OR KNOWINGLY AIDS OR ABETS ANY PERSON IN PAYING FOR OR ON ACCOUNT OF ANY ELECTION EXPENSES ANY SUM IN EXCESS OF THE MAXIMUM AMOUNT PRESCRIBED BY THIS SECTION". SECTION 141 OF THE ACT COVERS POLITICAL BRIBERY.

(E) SECTION 137 OF THE ELECTORAL ACT 1956 STATES THAT WITHIN 70 DAYS AFTER THE DAY ON WHICH A CANDIDATE RETURNED AT ANY ELECTION IS DECLARED ELECTED, EVERY CANDIDATE AT THE ELECTION SHALL TRANSMIT TO THE RETURNING OFFICER A RETURN OF HIS ELECTION EXPENSES. A CANDIDATE WHO FAILS TO COMPLY IS LIABLE TO A FINE FOR EVERY DAY ON WHICH HE SITS OR VOTES IN THE HOUSE OF REPRESENTATIVES, UNTIL THE RETURN IS RECEIVED. EVERY CANDIDATE WHO TRANSMITS A RETURN THAT IS FALSE IN ANY MATERIAL PARTICULAR COMMITS A CORRUPT PRACTICE UNLESS HE SATISFIES THE COURT THAT HE HAD NO INTENTION TO MISSTATE OR CONCEAL THE FACTS.

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(F) YES. THE RECEIPT, OFFER OR SOLICITATION OF ANY GIFTS OR OTHER CONSIDERATIONS WHETHER MONETARY OR NOT, IS PROHIBITED UNDER THE SECRET COMMISSIONS ACT.

3. COPIES OF THE SECRET COMMISSIONS ACT, THE STATE SERVICES ACT (AND ITS AMENDMENTS) THE PUBLIC SERVICE REGULATIONS, AND THE ELECTORAL ACT BEING TRANSMITTED NEXT AVAILABLE POUCH.  
KILLGORE

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## Message Attributes

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**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** BRIBERY, LAW, BUSINESS FIRMS, FOREIGN INVESTMENTS, CENTRAL LEGISLATURE  
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**Copy:** SINGLE  
**Draft Date:** 03 MAY 1976  
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**Disposition Approved on Date:**  
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**TAGS:** PGOV, PFOR, NZ, US  
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